IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5709 OF 2004

Jeyarajan Muthiah S. ..Applicant.

V/s.

The State of Maharashtra & Ors. ..Respondents.

Shri U.S. Samudrala for the Applicant.
Shri K.V. Saste, APP for Respondent No.1 -State.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 07,2005.

PC :-

1. Pursuant to the notice issued by this court on January 14, 2005, the Applicant has served Respondent No.2. Affidavit of service has been filed, which states this position. Although Respondent No.2 has been served none appears. Heard counsel for the Applicant and learned APP for Respondent No.1.

2. Rule. Rule made returnable forthwith. As short question is involved, the petition is taken up for final disposal forthwith.

3. Respondent No.2 has initiated criminal action against the applicant for offence punishable under section 498(A) and 406 of I.P.Code, which is stated to

be pending before the Metropolitan Magistrate, 12th Court at Bandra in case No. 698/P of 2002. It is seen from the record that during the pendency of the said complaint, the parties have amicably settled all disputes between them. Consequent to that development, Respondent No.2 who is complainant, filed Application before the Magistrate, in writing, dated 6th September, 2004, stating that she is not interested in pursuing the criminal action and the same be allowed to be compounded in view of the decision reported in 2004 (3) Maharashtra Law Journal 303, in the case of State of Mah. vs. Madhu Bhisham Bhatia. That application is, however, rejected as the offence under section 498 (A) of IPC cannot be compounded even with the permission of the court. The reason as mentioned by the trial court, indeed, is correct position of law. However, as the applicant has approached this court for quashing and as respondent No.2, as it appears from the record, is not interested in pursuing the matter any further against the applicant in view of the settlement arrived at between the parties, the appropriate course, in my opinion, in the interest of justice, is to allow this application in terms of prayer clauses (a),(b) and (c).

4. Application is disposed of accordingly.

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